

**The United States District Court  
for the Southern District of Texas**

In Re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation	§ § § § § § § §
<hr/>	
This filing relates to:	§ § § §
CONSUMER TRACK ACTIONS	§ § § §

Civil Action No. 4:09-MD-2046

**Consumer Plaintiffs' Unopposed Motion for an Extension of Time to File Their Master Amended Complaint**

NOW COME plaintiffs Loretta A. Sansom, Jerome Engel, Jason and Julie Barrett, Arthur Anderson, Derek Hoven, Robert M. Read, Robert D. Watson, Moises Merino, Scott Swenka, Steve Brown, Michelle F. Latham, Sherri Spencer, Talal Kaissi, Mark Hilliard, Colleen McGinty, Carole Carr, Ana Balloveras, Juan M. Mata, Darryl McLaughlin, and Jason J. Rose (“Consumer Plaintiffs”), on behalf of themselves and all others similarly situated, by and through their attorneys, and in support of Consumer Plaintiffs’ Unopposed Motion for an Extension of Time to File Their Master Amended Complaint, state as follows:

1. On August 28, 2009, the Court entered Case Management Order No. 1 (“CMO 1”), which ordered that the Consumer Track plaintiffs were to file their Master Amended Complaint no later than September 23, 2009. *See CMO 1 at 9–10 (Rosenthal, J., Aug. 28, 2009) [D.E. #21].*
2. CMO 1 further ordered that defendant Heartland Payment Systems, Inc. (“Heartland”) was to file any motions under Fed. R. Civ. P. 12 relating to the Master

Amended Complaints by October 23, 2009, with opposition filings due by November 23, 2009, and Heartland's replies due by December 18, 2009.

3. Consumer Plaintiffs' counsel are in the process of drafting their Master Amended Complaint. Given, *inter alia*, the number of plaintiffs and the complex nature of the litigation, Consumer Plaintiffs respectfully request that the Court grant them an additional twenty-one (21) days, until October 14, 2009, in which to file their Master Amended Complaint.

4. Accordingly, it is further respectfully requested that the corresponding deadlines relating to any motions under Fed. R. Civ. P. 12 filed by Heartland relating to the Consumer Plaintiffs' Master Amended Complaint should also be extended as follows:

- (a) any motion filed by Heartland under Fed. R. Civ. P. 12 relating to the Consumer Plaintiffs' Master Amended Complaint is due by November 13, 2009;
- (b) the opposition filing by the Consumer Plaintiffs is due by December 14, 2009; and
- (c) Heartland's reply is due by January 8, 2009.

5. Consumer Plaintiffs' counsel have conferred with counsel for Heartland, and are advised that Heartland does not oppose this extension.

6. Consumer Plaintiffs submit that it is their belief that this extension will not substantively alter the overall litigation schedule of this matter. A proposed Order reflecting the extension and all corresponding dates is attached hereto as Exhibit 1.

WHEREFORE, for the foregoing reasons, Consumer Plaintiffs respectfully request that the Court extend the deadline to file their Master Amended Complaint until October 14, 2009, and extend the other dates referenced herein, as set forth and requested.

Dated: September 23, 2009

Respectfully submitted,

By: /s/ Ben Barnow

Ben Barnow  
Barnow and Associates, P.C.  
One North LaSalle Street, Suite 4600  
Chicago, IL 60602  
Telephone: (312) 621-2000

Lance A. Harke  
Harke & Clasby, LLP  
155 South Miami Ave., Suite 600  
Miami, FL 33130  
Telephone: (305) 536-8220

Burton H. Finkelstein  
Finkelstein Thompson LLP  
1050 30<sup>th</sup> Street, N.W.  
Washington, D.C. 20007  
Telephone: (202) 337-8000

*Plaintiffs' Interim Co-Lead Counsel  
for the Consumer Track*

Harold B. Gold  
Wisener Nunnally Gold, L.L.P.  
625 Centerville Rd., Suite 110  
Garland, TX 75041  
Telephone: (972) 840-9080

*Plaintiffs' Liaison Counsel for the  
Consumer Track*

**Certificate of Service**

I, Ben Barnow, hereby certify that I caused copies of Consumer Plaintiffs' Unopposed Motion for an Extension of Time to File Their Master Amended Complaint to be served upon counsel of record via ECF on this 23rd day of September, 2009.

/s/ Ben Barnow